

MAY 22 2002

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 01-13
AUDIT REFERRAL DATE: 09/14/01
DATE ACTIVATED: 9/28/01

EXPIRATION OF STATUTE OF LIMITATIONS:
MARCH 25, 2003 – NOVEMBER 2, 2003

MUR: 4831
DATE COMPLAINT FILED: 10/22/98
DATE OF NOTIFICATION: 10/28/98
DATE ACTIVATED: 9/28/01

EXPIRATION OF STATUTE OF
LIMITATIONS:
MARCH 25, 2003 – NOVEMBER 2, 2003

STAFF MEMBERS: Beth Mizuno
Delanie DeWitt Painter

SOURCE: AR 01-13 -- AUDIT REFERRAL
MUR 4831 -- COMPLAINT-GENERATED

COMPLAINANT: MUR 4831
John Hancock, Executive Director
Missouri Republican Party
(MUR 4831)

RESPONDENTS: Missouri Democratic State Committee and
Michael Kelley, as Treasurer

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Democratic Senatorial Campaign Committee and
James Jordan, as Treasurer

Jeremiah W. ("Jay") Nixon

Nixon Campaign Fund and
John C. Lanham, as Treasurer

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(a)(8)
2 U.S.C. § 441a(d)(1)
2 U.S.C. § 441a(d)(3)(A)
2 U.S.C. § 441a(f)

11 C.F.R. § 102.8(a)
11 C.F.R. § 102.8(c)
11 C.F.R. § 104.3(a)
11 C.F.R. § 110.6(a)
11 C.F.R. § 110.6(b)
11 C.F.R. § 110.6(c)
11 C.F.R. § 110.7(a)(4)
11 C.F.R. § 110.7(b)

INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This report concerns two enforcement matters: MUR 4831, a complaint-generated matter, and Audit Referral ("AR") 01-13 regarding the Missouri Democratic State Committee ("MDSC") and Michael Kelley, as treasurer. These matters are being addressed in one report because the complaint and one of two referred audit findings concern the same activity and possible violations related to earmarked contributions. The potential earmarking violations involve several respondents: the MDSC, the Democratic Senatorial Campaign Committee

1 ("DSCC") and James Jordan, as treasurer, the Nixon Campaign Fund ("Nixon Committee") and
2 John C. Lanham, as treasurer, and Senate candidate Jeremiah "Jay" Nixon ("Nixon").²

3 MUR 4831 was generated by a complaint filed on October 15, 1998 by John Hancock,
4 the Executive Director of the Missouri Republican Party, that asserted that the MDSC, the DSCC
5 and the Nixon Committee engaged in an illegal tallying scheme in violation of reporting
6 requirements and contribution limits. The MDSC filed its response to the complaint on
7 December 11, 1998. The DSCC filed its response on December 3, 1998. Nixon's campaign
8 manager, Charles Hatfield, submitted an affidavit, apparently on behalf of Nixon and the Nixon
9 Committee on December 9, 1998. On June 6, 2000, the Commission decided to hold MUR 4831
10 in abeyance pending completion of the MDSC audit.

11 AR 01-13 arose from the audit of MDSC, undertaken by the Commission in accordance
12 with 2 U.S.C. § 438(b). The audit covered the period January 1, 1997 through December 31,
13 1998. The Commission approved the Final Audit Report on August 23, 2001. On September 13,
14 2001, the Audit Division referred two findings to the Office of General Counsel for potential
15 enforcement action: earmarked contributions and excessive coordinated party expenditures.
16 Attachment 1.

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² Nixon was the 1998 Democratic candidate for Missouri's Senate seat and the Nixon Campaign Fund was his principal campaign committee.

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c. Recommendation

Finally, while

**Jeremiah "Jay" Nixon was identified as a respondent in MUR 4831, the complaint does not
allege any activity on his part in violation of the Act or the Commission's regulations.
Accordingly, pending the results of the investigation, this Office recommends that the
Commission take no action at this time concerning Jeremiah "Jay" Nixon.**

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RECOMMENDATIONS

1.

2.

3.

4.

5. Take no action, at this time, against Jeremiah "Jay" Nixon;


6.


7.

1 8.

2 5/22/02
3 Date


Lawrence H. Norton
General Counsel


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